

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

REC'D TN  
REGULATORY AUTH.

'99 JUN 13 PM 3 34

IN RE:

PETITION OF TIME WARNER TELECOM OF  
THE MID-SOUTH, L.P. FOR MEDIATION WITH  
BELLSOUTH TELECOMMUNICATIONS, INC.  
PURSUANT TO THE TELECOMMUNICATIONS  
ACT OF 1996

CLERK OF THE  
DOCKET NO. SECRETARY  
99-00500

---

***PETITION REQUESTING MEDIATION AND MOTION TO CONSOLIDATE***

---

Comes now, Time Warner Telecom of the Mid-South, L.P. ("Time Warner") and requests, pursuant to 47 USC 252(a)(2), that the Tennessee Regulatory Authority ("Authority") mediate differences which have occurred during the course of its negotiations with BellSouth Telecommunications, Inc. ("BellSouth") in an effort to enter into an interconnection agreement. Furthermore, Time Warner moves the Authority to consolidate this mediation with Docket Nos. 99-00377 and 99-00430 -- the pre-arbitration negotiations of ICG Telecom Group, Inc. and ITC DeltaCom, Inc., respectively. In support of its request and motion, Time Warner states as follows:

1. BellSouth and Time Warner have been negotiating the specific provisions of an interconnection agreement for approximately five months and have reached agreement on a vast majority of those provisions. At the time of the filing of this request and motion, there are only five issues left for resolution between the parties, and the window for requesting arbitration for these negotiations pursuant to 47 USC 252(b)(1), is not until September 21, 1999 through October 16, 1999.

2. Time Warner believes that the remaining issues in dispute could be resolved without the necessity of a formal arbitration proceeding.

3. The remaining issues to be resolved for the purposes of the BellSouth/Time Warner Interconnection Agreement have been raised and are being considered in Docket Nos. 99-00377 and 99-00430.

4. At a Special Conference Agenda held on Tuesday, June 29, 1999, the Authority discussed the arbitration petitions filed by ICG Telecom Group, Inc. (Docket No. 99-00377), and ITC DeltaCom, Inc. (Docket No. 99-00430). The Authority's deliberations over these petitions concluded with the suggestion that the general counsel or his designee facilitate negotiations between the parties to resolve outstanding issues consistent with the Authority's orders in previous arbitration and generic contested case proceedings. Time Warner submits that this suggested process is, in effect, tantamount to a mediation as to those issues which might be resolved outside the arbitration hearing.

5. Time Warner contends that judicial economy demands that its request for mediation be consolidated with the pre-arbitration negotiations between the parties in these aforementioned dockets to avoid unnecessary and duplicative effort.

6. A description of the unresolved issues and Time Warner's position on each of the unresolved issues is set forth below. In addition, the position of BellSouth, as understood by Time Warner, is described.

**ISSUE NO. 1:** Until the FCC adopts a rule with prospective application, should dial-up calls to internet service providers ("ISPs") be treated as if they were local calls for purposes of reciprocal compensation?

Time Warner Position: Yes. Until the FCC adopts a rule with prospective

application, reciprocal compensation is appropriate for calls to ISPs. Time Warner incurs costs on behalf of BellSouth whenever Time Warner terminates calls originated by BellSouth end users to ISPs served by Time Warner. Without the payment of reciprocal compensation, Time Warner will receive no compensation at all for the traffic it terminates prior to the time the FCC adopts a prospective compensation rule at some indefinite point in the future.

BellSouth Position: BellSouth opposes the payment of compensation for termination of calls to ISPs and BellSouth will not accept a reasonable temporary solution.

**ISSUE NO. 2:** For the calculation of the PLU/PIU factors in an Interim Number Portability (“INP”) environment, should BellSouth be required to provide to Time Warner a breakdown of the local, intrastate and interstate traffic that it reports to Time Warner?

Time Warner Position: Yes. A breakdown of the local, intrastate and interstate traffic and the underlying assumptions are appropriate, and such breakdown would assist Time Warner in understanding BellSouth’s calculations of the PLU/PIU factors. Such information is readily available to BellSouth since the traffic is carried on separate trunks.

BellSouth Position: BellSouth has not provided an understandable answer to this inquiry.

**ISSUE NO. 3:** Should BellSouth be required to provide white page listings and access to numbering resources to Time Warner at parity with which it provides to itself?

Time Warner Position: Yes, state and federal law, as well as regulatory orders and rules, require BellSouth to provide service at parity with which BellSouth provides service to itself.

BellSouth Position: BellSouth provides its white page listings to third-party publishers, but unequivocally refuses to provide Time Warner's listings to the same publishers.

**ISSUE NO. 4:** Should the parties be required to perform cooperative testing at the request of the other party to interconnection trunks and unbundled network elements?

Time Warner Position: Yes. This process is necessary to ensure satisfactory service to the end user. In order to provide the same quality service to its customers, Time Warner must have access to the same testing platforms that BellSouth uses for its own customers.

BellSouth Position: BellSouth is unwilling to participate in cooperative testing.

**ISSUE NO. 5:** Should the parties continue operating under existing local interconnection arrangements?

Time Warner Position: Yes. There is no reason to change the previously-approved local-interconnection agreement to the extent that this agreement has operated for the past two years.

BellSouth Position: Unknown.

WHEREFORE, THE PREMISES CONSIDERED, Time Warner Prays that:

1. its request for mediation be granted;
2. the Time Warner/BellSouth mediation be consolidated with the pre-arbitration negotiations between BellSouth and both ICG Telecom Group, Inc., and ITC DeltaCom, Inc., which will be scheduled and facilitated by general counsel to the Tennessee